

FILED

MAR 30 2001

PEGGY B. DEANS, CLERK
U.S. BANKRUPTCY COURT
EASTERN DISTRICT OF N.C.

IN RE:

CHAPTER 7

INTERNATIONAL HERITAGE, INC.,

CASE NO. 98-02675-5-ATS

Debtor,

MOTION TO COMPROMISE AND SETTLE ADVERSARY PROCEEDING
(S-00-00189-5-AP)

NOW COMES Holmes P. Harden, Trustee, Trustee herein and plaintiff in the adversary proceeding captioned "Holmes P. Harden, Trustee, Plaintiff vs. Frank Mastoloni & Sons, Inc., Defendant", Adversary Proceeding No. S-00-00189-5-AP in this case (the "Adversary Proceeding"), through counsel and pursuant to Bankruptcy Rule 9019, and moves this Court for an order granting him authority to compromise and settle the Adversary Proceeding. In support of this Motion, the Trustee shows the Court:

1. Holmes P. Harden, is the duly appointed Trustee in this case.

2. The \$21,127.39 sought by the Complaint in the Adversary Proceeding represents the sum total of payments which the Trustee alleged to be avoidable and recoverable under Bankruptcy Code §547 and §550 of the Bankruptcy Code.

3. The Trustee and the Defendant have engaged in negotiations in which the Defendant has disputed the amount of the Trustee's claim and raised a number of defenses.

4. After negotiation, the Trustee and Defendant have agreed that, subject to Court approval, they would be willing to settle the Adversary Proceeding by payment by the Defendant to the Trustee of \$6,500.00.

5. The Trustee has analyzed the proposed settlement, taking into consideration such factors as the amount in controversy, the strengths and weaknesses of the claims and defenses, the information and evidence available to the Trustee to pursue the claims through trial, the costs of negotiation and litigation, and the costs and ability to collect any judgment obtained.

6. The Trustee believes that the proposed settlement is in the best interests of the estate and its creditors and requests that the Court approve this Motion.

WHEREFORE, the Trustee prays for an order approving and authorizing the settlement and compromise of the Adversary Proceeding on the terms described in Paragraph 4 above.

This the 30 day of March, 2001.

Stephani W. Humrickhouse
Stephani W. Humrickhouse
State Bar #9528
Attorney for Trustee
NICHOLLS & CRAMPTON, P.A.
Post Office Box 18237
Raleigh, North Carolina 27619
Telephone: (919) 781-1311

CERTIFICATE OF SERVICE

It is hereby certified that the foregoing **MOTION TO COMPROMISE AND SETTLE ADVERSARY PROCEEDING** was served this day by placing a copy thereof in a depository under the exclusive care and custody of the United States Postal Service in a postage prepaid envelope and properly addressed as follows:

Ray Mastoloni, Sr.
Frank Mastoloni Sons, Inc.
608 Fifth Avenue
New York, NY 10020

This the 30th day of March, 2001.



Mary Jane Baird
Legal Assistant
NICHOLLS & CRAMPTON, P.A.
Post Office Box 18237
Raleigh, North Carolina 27619
Telephone No: 919-781-1311